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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,054	10/05/2000	Shinji Nakamura	0819-430	7323

7590 04/01/2003
Eric J. Robinson
Nixon Peabody LLP
8180 Greensboro Drive Suite 800
McLean, VA 22102

EXAMINER

KEBEDE, BROOK

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 04/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/680,054

Applicant(s)

NAKAMURA ET AL.

Examiner

Brook Kebede

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____.
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 17-29 and 44-60.

Claim(s) withdrawn from consideration: 1-16 and 30-43.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation Sheet (PTO-303)

Part of Paper No. 13

Advisory Action

1. The Examiner has given full consideration of the amendment filed on March 14, 2003 in Paper No. 12, after Final Office Action of Paper No. 11. However, the limitation in claim(s) 17, 49 and 52 "whereby said plane is covered with said second semiconductor layer," "whereby said structure is filled said semiconductor layer," "and whereby said projection is capped with said semiconductor layer " respectively is required further search.

Since applicants did not pointed where the newly amended limitations can be found in the specification as originally filed, all of the amendments raise new issues that would have to be thoroughly considered in order to determine if the amendments constitute new matte, and all the amendments would otherwise require further undue consideration and/or search. In addition, there is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.

Correspondence

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brook Kebede whose telephone number is (703) 306-4511. The examiner can normally be reached on 8-5 Monday to Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (703) 306-2794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Brook Kebede


March 24, 2003


Clerk
Supervisor, Patent Examiner
Technology Center 2800